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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Peeters et al.

Serial No.: 10/824,782

Filed: April 15, 2004

For: NEWCASTLE DISEASE VIRUS
INFECTIOUS CLONES, VACCINES AND
DIAGNOSTIC ASSAYS

Confirmation No.: 7153

Examiner: S. Hurt

Group Art Unit: 1648

Attorney Docket No.: 2183-4646.2US
(REN/P22065US02)

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

November 13, 2006
Date


Signature

Betty Vowles
Name (Type/Print)

RESPONSE TO OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Office Action mailed August 10, 2006 has been received and reviewed. Claims 1 through 16 are pending in the application. Claims 6 through 8 were withdrawn as being drawn to a non-elected invention. Claims 1 through 5 and 9 through 16 stand rejected. Reconsideration is respectfully requested.

1. Interview

Applicants thank the Examiners for the courtesy extended during the interview conducted on September 11, 2006. Applicants appreciate the Examiners' helpful comments. As indicated in the Interview Summary, the interview included the following:

“[The claims discussed were] 1, 13, 14, 21, [and] 12. [Applicants agree to] [a]mend claims for clarification. Philips may be a later date. Taylor is not the same mutation.”

Applicants believes the foregoing description provided by the Examiners and agreed to by applicants' representative, taken with the comments contained with the remainder of this response, adequately sets forth the substance of the interview. *M.P.E.P.* § 713.04. If further comments are deemed necessary or helpful, the Office is kindly requested to contact applicants' undersigned attorney who will promptly provide any further detail desired.

2. Restriction

Applicants affirm the telephone election, without traverse, to prosecute the claims of Group I, claims 1 through 5 and 9 through 16. The claims of Groups II, claims 6 through 8, should be rejoined upon allowance of the Group I claims. Group II already depends from Group I claims.

3. 35 U.S.C. § 102(b) rejections

Claims 1 through 5 and 9 through 16 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Taylor *et al.* (Journal of Virology, Apr. 1990, Vol. 64, No. 4, p. 1441-1450) (hereinafter “Taylor”) (cited in IDS). Applicants respectfully traverse the rejections.

As discussed during the interview, Taylor discloses the exact opposite of the claimed invention. The claims disclose a negative marker from a deletion virus. Additionally, a fowl pox virus vector was utilized in Taylor. Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection.

If questions remain after consideration of the foregoing, the Office is kindly requested to

contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allen C. Turner".

Allen C. Turner

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